HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.204 of 2007

Between:

Ms.J. Haritha

... Appellant

And

The Principal Secretary to Govt.
Health, Medical and Family Welfare Department,
Hyderabad & others

... Respondents

Counsel for the appellant: Shri Jakkamsetti Ravindra

Counsel for respondent No.4: Shri D.V. Nagarjuna Babu

::JUDGMENT::

March 05, 2007

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to entertain her prayer for issue of an interim mandamus to respondent Nos.3 and 4 to allow her to take III year MBBS examination, the appellant has preferred this appeal.

Shri Jakkampudi Ravindra, learned counsel for the appellant

candidly stated that as per the extant rules, a candidate who has not cleared II MBBS examination is not eligible to take
III MBBS examination, but submitted that the Court may allow the appellant to take III MBBS examination, else her career will be adversely affected and she may have to lose one full year.

Learned counsel for respondent No.4 submitted that the appellant cannot be allowed to take examination of III MBBS because she does not satisfy the condition of eligibility laid down by the university.

We have considered the respective submissions. In our opinion, the interlocutory order passed by the learned Single Judge declining the appellant's prayer does not suffer from any patent legal infirmity. It is trite to say that in exercise of power under Article 226 of the Constitution, the High Court cannot issue a mandamus to the public authorities to violate the provisions of the Constitution or law enacted by the competent legislative body/authority. Any direction by the Court to the university to allow the appellant to take examination of III MBBS will amount to total negation of the scheme of examinations. Therefore, notwithstanding our sympathy with the appellant, it is not possible to entertain her prayer for being allowed to take the examination of III MBBS.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.374 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

March 05, 2007

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